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**Before the
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of	:	
	:	CC Docket No. 96-45
Federal-state Joint Board on	:	
Universal Service	:	CC Docket No. 98-171
	:	
1998 Biennial Regulatory Review – Streamlined	:	
Contributor Reporting Requirements Associated	:	
With Administration of Telecommunications	:	
Relay Service, North American Numbering Plan	:	
Local Number Portability, and Universal Service	:	
Support Mechanisms	:	
	:	
Telecommunications Services for Individuals with	:	
Hearing and Speech Disabilities, and the	:	CC Docket No. 90-571
Americans with Disabilities Act of 1990	:	
	:	
Administration of the North American Numbering	:	CC Docket No. 92-237
Plan and North American Numbering Plan Cost	:	NSD File No. L-00-72
Recovery Contribution Factor and Fund Size	:	
	:	
Number Resource Optimization	:	CC Docket No. 99-200
	:	
Telephone Number Portability	:	CC Docket No. 95-116

**TELSTAR INTERNATIONAL, INC.'S COMMENTS
IN RESPONSE TO THE FEDERAL COMMUNICATIONS COMMISSION'S
MAY 8, 2001 NOTICE OF PROPOSED RULEMAKING**

Telstar International, Inc., (“Telstar”) by its undersigned attorney, hereby submits its Comments in response to the Federal Communications Commission’s (“Commission”) *Notice of Proposed Rulemaking* (“NPRM”) in the above proceeding.¹ Telstar believes that the current method for assessing carrier contributions to the Federal universal service

¹ *In the Matter of Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking in CC Docket No. 96-45, et. al. (rel. May 8, 2001).

support mechanisms creates untenable burdens on carriers both large and small and as such, appreciates the Commission's recognition that the existing system needs reform and simplification.

Because Telstar is a small, privately owned carrier with limited resources, it has generally relied on its membership in organizations like ASCENT for representation in proceedings before this Commission. The issues presented in this proceeding however, are of significant importance to Telstar, and thus necessitate Telstar's first independent foray in a public proceeding.

In these Comments, Telstar recommends that the Commission streamline and reform the assessment method for determining carrier contributions to the Federal universal service funding mechanisms by implementing a flat-fee assessed on end user lines served. The existing method for assessing carrier contributions based on gross-end user revenues has proven to have a number of significant flaws that create a panoply of real problems for carriers. Specifically, the existing methodology for assessing carrier contributions to the universal service funding mechanisms:

1. Discriminates against carriers in the most fiercely competitive market segments. –Because the assessment is based on gross revenues, it unfairly discriminates against those industry segments, such as international toll services, which have extremely thin margins.
2. Imposes enormous administrative, accounting, and financial burdens on carriers
– Because the current methodology used to assess contributions makes no

allowances for uncollectibles, credits, or payments to underlying carriers, carriers must engage in complex calculations to determine what they must recover from end users to cover their contribution amounts.

3. Requires carriers to assume the formidable and virtually impossible responsibility of policing their down-stream customers – The existing methodology requires a reporting carrier to determine whether its wholesale customers are supporting the universal service mechanisms and if not, requires the reporting carrier to report down-stream wholesale customer revenues as end user revenues. These requirements put unfair, untenable and virtually impossible policing burdens on reporting carriers.
4. Unfairly requires reporting carriers to shoulder the financial burdens that otherwise should be borne by *de minimis* carriers Because the existing methodology requires reporting carriers to report revenues from *de minimis* wholesale customer's as end user revenues, it unfairly requires reporting carriers to assume assessment amounts that would otherwise be paid by wholesale customers, and thus must be reformed.

Because the current method used to determining carrier contributions is discriminatory and unduly burdensome on reporting carriers, Telstar urges the Commission to abandon replace it with a flat fee assessed on each end user line served by a particular carrier ("flat fee assessment"). A flat-fee assessment is fair to all carriers, and would eliminate many

of the administrative, accounting, and policing burdens on both carriers and USAC. Similarly, Telstar urges the Commission to remove the burdens on vendor carriers that have been imposed by the treatment of *de minimis* carriers under the current reporting methods. Telstar discusses its position on these issues in detail below.

I. BACKGROUND AND INTRODUCTION

Telstar International, Inc. is an authorized non-dominant facilities-based carrier with global authority subject to Section 214 of the Telecommunications Act and §63.18(e)(2) of the Commission's rules to provide international basic switched, private line, data, television and business services. While Telstar's primary business is the provision of wholesale and retail international telecommunications services, Telstar provides some interstate and intrastate service incidental to its international offerings and therefore has an interest in these proceedings. Moreover, Telstar is interconnected with over 70 other active telecommunications carriers worldwide, and is licensed to provide intrastate interexchange services in 10 states and Canada.

II. THE COMMISSION SHOULD REPLACE THE EXISTING ASSESSMENT METHOD WITH A FLAT-FEE ASSESSED ON A PER END USER LINE BASIS.

A. The Current Methodology Imposes Enormous Administrative Requirements On Reporting Carriers.

The Commission should replace its existing method for assessing carrier contribution to universal service support mechanisms with a system based on a flat-fee multiplied by the number of end user lines served by that carrier. A-flat-fee method would be significantly easier for both reporting carriers and USAC to administer. As the

Commission noted in its *NPRM*, “assessment on a flat-fee basis will eliminate many of the complex calculations that reporting carriers must currently undertake in order to determine the amount that they must recover in addition to contribution assessments.”²

Under the current method, carrier contributions are based on gross end user revenues multiplied by a “contribution factor.” This method, imposes onerous administrative, accounting and financial costs on reporting carriers, making it almost impossible for carriers to ascertain the amounts that they must recover from customers either through rates or via line items on bills in order to recover the assessment.

Among some of the factors that a reporting carrier must consider under the current system is the prevailing contribution factor, and operation, billing and collection costs and overheads associated with administering the fee. In addition, the finance and marketing groups must then determine how to allocate the assessment among the reporting carrier’s various customer groups taking into consideration differing margins on products, uncollectible rates, and credits associated with different products and market segments. As a result, a reporting carrier must engage in a sort of accounting and financial gymnastics to assure that it is able to recover the considerable assessment costs.

As the Commission noted in the *NPRM*, carriers often have widely disparate universal service charges appearing on their end user bills that would seem, to the casual observer, to make little sense.³ Once the surface of the issue is scratched, however, the underlying bases for these different charges may be quite rational. For example, a carrier who caters to one end user group may have wildly different uncollectible rates than another carrier. For example, it is generally accepted that in a commercial setting,

² *NPRM*, p. 14, para 26.

³ *NPRM*, p. 5 para 4.

companies can expect, an uncollectible rate of approximately 3-5%. The uncollectible rate among military servicepersons for certain telecommunications services however has proven to be between 35- 40%. Similarly, a carrier who provides either prepaid service or service based on a per-minute charge is bound to refund more credits than a carrier who provides a service with a flat monthly charge. Accordingly, since the existing assessment method is based on gross revenues and does not make any allowances for uncollectibles, credits, or other variables, a provider who offers service to a particular end user group needs to assess and determine what additional fees it needs to include on its end user bills to account for the specific characteristics of its particular end user business. On the other hand, since in a flat-fee scenario all end users would be assessed the same amount, carriers would not have to bear the significant costs associated with the financial and administrative exercises that it must endure today to determine its contribution to universal service support.

B. The Existing Method For Assessing Carrier Contributions Discriminates Against Carriers and Customers In The Most Fiercely Competitive Sections Of The Telecommunications Marketplace.

The Commission chose to assess revenues based on gross end user telecommunications revenues believing that this methodology would be, “both competitively neutral and relatively easy to administer.”⁴ Practice, however, has demonstrated that the current assessment method is neither. Indeed, the existing method discriminates against carriers who operate in the most competitive segments of the marketplace. Specifically, the existing method discriminates against carriers who offer

⁴ *Id.*

services where fierce competition has resulted over time in incredibly thin margins, by eating away at most, if not the entire margin on competitive products.

As the Commission noted in its NPRM, market conditions are undergoing dramatic change.⁵ Margins on interstate and international toll services are shrinking at an astounding rate, while other services are seeing margins remain relatively consistent. In the international toll services market for example, it is not unusual to have margins of no more than an average of 10% gross margin over cost. Using the current contribution assessment method, even the most efficient carriers, after payments to underlying carriers, universal service assessments and overhead, actually *lose* money what would otherwise be profitable service offerings. This is illustrated by the following example: Assume Carrier A has \$100.00 in sales, with a gross margin of 10% (or in other words, a \$10.00 gross profit). Assuming a contribution factor of 7%, Carrier A will achieve a gross profit of only \$3.00 (or 3%) out of which, Carrier A must then pay all overhead and associated costs of doing business. On the other hand, carriers subject to less price competition but with the same amount of gross revenue do not suffer the same fate. Assume Carrier B, also has \$100 in sales but because of lesser price competition has a gross margin of 30%. If the contribution factor is 7%, Carrier B retains \$27.00 in profit with which to pay its overhead even though its gross revenue is exactly the same as Carrier A. Under the existing regime, carriers who face the fiercest price competition are unfairly disadvantaged, forcing otherwise profitable carriers into net-negative positions and thereby limiting customer choice.

⁵ NPRM, p. 8, para 12.

C. The Existing Method For Determining Carrier Assessments Imposes Enormous And Unfair Policing Requirements On Reporting Carriers.

In addition to its discriminatory and anti-competitive effects discussed *supra*, the existing assessment method imposes unwieldy administrative costs and unreasonable policing burdens on reporting carriers. Under the existing method, end user telecommunications revenues are included in a carrier's contribution base while revenues from wholesale providers are not.⁶ If, however, a wholesale customer is a "*de minimis*" carrier, revenues from that wholesale customer are considered end user revenues and thus part of the reporting carrier's contribution base.⁷ This requirement puts carriers like Telstar, with relationships with over 70 separate carriers in the untenable position of having to police each of its carrier customers to determine its status vis-à-vis universal service contribution. Underlying carriers are simply not in a position to perform this sort of policing function. Given that a wholesale customer might also do business with 70 carriers other than the reporting carrier, it is virtually impossible to know a particular customer's status with respect to universal service obligations. In addition, based on existing market conditions, a carrier customer's status could change from reseller to end user at any given moment, putting the reporting carrier in the position of constantly attempting to update what revenues are end user versus carrier revenues, and thus, further complicating its ability to assess the amount payable to the fund, or to forecast how to recover the assessment. It is unreasonable to expect that carriers, who often compete with their reseller customers, to be required or even able to audit their customer's revenues in this manner. These burdens take a significant toll on small carriers who are

⁶ *Universal Service Order*, p. 421, para 844

⁷ See Instructions to the FCC Form 499-A worksheet, pp. 14-15.

not equip with huge accounting departments able to dedicate themselves to this full-time task and must be removed.

1. If The Commission Chooses To Retain The *De Minimis* Classification It Should Discontinue Shifting The Contributions Forgone By The Commission To Venders Of Those Carriers.

In its NPRM, the Commission asked what the impact of the various proposals for universal service reform would be on the current *de minimis* exemption to the universal service contribution requirement.⁸ Telstar appreciates and understands the rationale for the Commission's decision to adopt a *de minimis* standard, thereby exempting some carriers from contribution to the universal service support. Specifically, the Commission adopted the *de minimis* exemption because it believed that compliance costs associated with contributing to the universal service mechanisms should not exceed contribution amounts.⁹ It may be true that the benefits of recovering amounts otherwise owed by *de minimis* carriers is outweighed by the costs of reporting those amounts or the administrative burdens on USAC. The Commission, however, should not then shift these costs to the vendors by requiring them to then assume *de minimis* carriers' universal service fund costs, or to have to shoulder the untenable, expensive, and virtually impossible-to-implement policing burdens discussed *supra*. Accordingly, regardless of the contribution assessment method it ultimately adopts, if the Commission chooses to retain the *de minimis* classification, it should remove the existing financial and administrative burdens on vendors resulting from the *de minimis* classification.

⁸ NPRM, p. 15, para. 31.

⁹ See *Federal-State Joint Board on Universal Service, Fourth Order on Reconsideration* in CC Docket No. 96-45 Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318, 5465, para. 295 (1997).

III. IF THE COMMISSION CHOOSES TO RETAIN A CONTRIBUTION METHOD BASED ON REVENUES, IT SHOULD NOT LIMIT A CARRIER'S ABILITY TO RECOVER ITS UNIVERSAL SERVICE BASED ON THE CONTRIBUTION FACTOR.

In its *NPRM*, the Commission asked whether it should limit a carrier's ability to recover its universal service contribution via a percentage that corresponds to the contribution assessment on the carrier.¹⁰ Telstar submits that such a cap is inappropriate since it fails to take into consideration the unique idiosyncrasies of any particular provider's customer base. As discussed *supra* in Section IIA of these Comments, multiple variables contribute to the amount a particular carrier may need to collect from its customer base, including uncollectibles, credits, and product margins. An additional factor that accounts for the need to include a higher universal service fee on end user bills than the contribution factor assigned by the Commission is necessitated by the very method used for determining a reporting company's contribution. Specifically, line 403 of the FCC's form 499-A asks carriers to report revenue from surcharges on bills identified as recovering State or Federal Universal Service contributions.¹¹ This collected amount is then factored into the reporting carrier's contribution base¹² Accordingly, if the contribution factor were 10%, and a carrier collected \$40,000 to cover its universal service assessment, the carrier would then be assessed an additional \$4000.00 assessment on the money it collected to cover its universal service contributions, which, if also recovered, would be subject to an assessment of \$400.00, and so forth and so on. Accordingly, under the existing assessment method, a carrier must go through complex

¹⁰ *Id.*, p. 3, para 2.

¹¹ *See* FCC Form 499-A, p. 5 line 403

¹² *Id.*, p. 5, line 420.

accounting exercises to determine how much it needs to allocate towards its potential universal service assessment each year and how to collect those monies. If the Commission chooses to retain the existing methodology for assessing carrier contributions, it should not hamstring a carrier's ability to collect its universal service assessment from end users via a "tying" to the prevailing contribution factor.

IV. CONCLUSION

The existing universal service contribution assessment method, while seemingly simple, is wrought with reporting complexities and inequities that need to be addressed. The administrative, accounting and policing burdens that the existing method imposes on carriers is excessive, and the application of the gross end-user revenues method discriminates against carriers in the most fiercely competitive segments of the marketplace. Accordingly, it is imperative that a more streamlined and competitively neutral assessment mechanism is implemented. To that end, Telstar recommends that the Commission adopt a flat-fee assessment on end users lines. A flat-fee assessment is competitively neutral, easy to implement, and relieves many of the existing burdens implicit in the existing assessment methodology. Further, Telstar strongly urges the

Commission to remove both the financial and administrative hardships on reporting carriers that currently result from the current method of administration of the *de minimis* classification.

Respectfully submitted,

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